IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 18TH JULY 2007 / 27TH ASHADHA 1929

CRP.No. 637 of 2005(F)

AGAINST THE ORDER DATED 08/10/2004 IN EP 1844/2000 IN OS.1781/1998 of PRL.M.C.,IRINJALAKUDA

.....

REVN. PETITIONER: 3RD JUDGEMENT DEBTOR:

SASIKUMAR, S/O. THARAYIL RAMAN,
IRINJALAKUDA DESOM, VILLAGE (PRIYA TYRES,
KATTOOR ROAD, IRINJALAKUDA).

BY ADV. SRI.DILIP J. AKKARA

RESPONDENTS: DECREE HOLDER:

BENIGN KURIES AND LOANS (P) LTD.,
IRINJALAKUDA, MUKUNDAPURAM TALUK.

BY ADV. SRI.K.G.BALASUBRAMANIAN

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 18/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N. KRISHNAN, J.

= = = = = = = = = = = = = = =

C.R.P. NO. 637 OF 2005

= = = = = = = = = = = = = = =

Dated this the 18th day of July, 2007.

O R D E R

This revision petition is preferred against the order of the Principal Munsiff, Irinjalakuda in E.P.1844/00. By the said order the Court has ordered arrest of judgment debtors 1 to 3 and the arrest of 3rd judgment debtor with the help of the decree holder and police. It is the 3rd judgment debtor who has come up before this Court and contend that he is not having any means to pay and therefore the order has to be set aside.

2. A reading of the civil revision petition would reveal that he had been brought under arrest on one occasion and he was released on kychit on payment of Rs.5000/- and on the date when the arrest is ordered he had paid Rs.500/-. The balance decree amount comes between Rs.10,000/- and Rs.15,000/- and the first judgment debtor and the 2nd judgment debtor have not made any payment toward the decree debt at all though the first judgment debtor is the principal judgment debtor. It is true that the

liability of the surety is a coextensive one with that of the principal debtor. But, at any rate, the person who had enjoyed the money should also be made to pay the same. In order to avoid unnecessary hardship to the 3rd judgment debtor I am inclined to grant him some time to wipe off the entire liability and therefore the order of arrest against him is set aside and he is directed to pay the balance amount in three equal monthly installments commencing from 28th August, 2007. I make it clear that the decree holder shall pursue his remedy against D1 and D2 and in case any amount is realised that can be adjusted and the balance amount alone need to be collected from the 3rd judgment debtor. In case the 3rd judgment debtor commits default of payment any of the installments the benefit given to him under this order will be forfeited and the decree holder will be at liberty to proceed against him for arrest and detention in civil prison.

The C.R.P. is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

ul/-